

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 SENATE BILL 829

By: Sparks

4
5
6 AS INTRODUCED

7 An Act relating to trespassing; amending Section 4,
8 Chapter 268, O.S.L. 2006, as last amended by Section
9 2, Chapter 458, O.S.L. 2009 (21 O.S. Supp. 2010,
10 Section 1835.2), which relates to trespass upon
11 private land; modifying penalties for trespass on
12 certain lands; and providing an effective date.

13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY Section 4, Chapter 268, O.S.L.
15 2006, as last amended by Section 2, Chapter 458, O.S.L. 2009 (21
16 O.S. Supp. 2010, Section 1835.2), is amended to read as follows:

17 Section 1835.2 A. Notwithstanding the provisions of Section
18 1835 of this title, the following provisions apply to private land
19 that is primarily devoted to farming, ranching, or forestry
20 purposes:

21 1. Except as provided in this section, whoever willfully enters
22 private land of another that is primarily devoted to farming,
23 ranching, or forestry purposes without permission by the owner or
24 lawful occupant thereof shall be deemed guilty of trespass and, upon
conviction thereof, shall be fined in any sum not less than Five

1 ~~Hundred Dollars (\$500.00)~~ One Thousand Five Hundred Dollars
2 (\$1,500.00) nor more than ~~One Thousand Five Hundred Dollars~~
3 ~~(\$1,500.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00), and in
4 addition, the court shall order restitution for actual damages
5 incurred. Persons convicted of a second or subsequent offense under
6 this paragraph shall be guilty of a misdemeanor and shall be
7 punished by a fine in any sum not less than ~~One Thousand Five~~
8 ~~Hundred Dollars (\$1,500.00)~~ Two Thousand Five Hundred Dollars
9 (\$2,500.00) nor more than ~~Two Thousand Five Hundred Dollars~~
10 ~~(\$2,500.00)~~ Five Thousand Dollars (\$5,000.00) or by confinement in
11 the county jail for not less than thirty (30) days nor more than six
12 (6) months, or by both such fine and imprisonment, and in addition,
13 the court shall order restitution for actual damages incurred;

14 2. This provision shall not apply to peace officers as defined
15 in Section 99 of this title or any federal, state, or local
16 government employees engaged in the performance of their duties, or
17 to any firefighters, emergency medical personnel, or public utility
18 employees engaged in addressing an emergency that presents an
19 imminent danger to health, safety, or the environment in the
20 performance of their duties, or to parties engaged in oil and gas
21 operations, which shall include, without limitation, exploration,
22 drilling, production and sales activities, under authority of
23 mineral ownership, an oil and gas lease, seismic agreement or
24 permit, gas gathering, purchase, transportation, or treating

1 contracts, Corporation Commission order, or other lawful authority
2 from persons entitled to give the same. The provisions of this
3 section shall not prohibit railroad employees and emergency
4 equipment from entering such land to restore rail service following
5 an accident, derailment or natural disaster; nor the entrance of
6 utility employees or contractors while acting in the scope of their
7 employment; nor employees or contractors of valid easement or
8 license holders while acting in the scope of their employment;

9 3. The following persons may enter such land of another unless
10 forbidden to do so, either orally or in writing, by the owner or
11 lawful occupier thereof: registered land surveyors and registered
12 professional engineers for the purpose of land surveying in the
13 performance of their professional services; persons in the sole
14 process of retrieving their domestic livestock or other animals;
15 persons making a delivery, selling a product or service, conducting
16 a survey or poll, working on behalf of a candidate for political
17 office, or who otherwise have a legitimate reason for entering and
18 who, immediately upon entering, seek to conduct such business; and

19 4. Anyone who willfully or maliciously enters any such land of
20 another and therein commits or attempts to commit waste, theft, or
21 damage shall be deemed guilty of a misdemeanor and, upon conviction
22 thereof, shall be fined in any sum not less than Two Hundred Fifty
23 Dollars (\$250.00) nor more than Five Hundred Dollars (\$500.00), or
24 by confinement in the county jail for not less than thirty (30) days

1 nor more than six (6) months, or by both such fine and imprisonment,
2 and in addition, the court shall order restitution for actual
3 damages incurred. Persons convicted of a second or subsequent
4 offense under this paragraph shall be guilty of a misdemeanor and
5 shall be punished by a fine in any sum not less than Seven Hundred
6 Dollars (\$700.00) nor more than One Thousand Five Hundred Dollars
7 (\$1,500.00), or by confinement in the county jail for not less than
8 thirty (30) days nor more than six (6) months, or by both such fine
9 and imprisonment, and in addition, the court shall order restitution
10 for actual damages.

11 B. This section shall not be construed to prohibit acts that
12 are permitted pursuant to Section 5-202 or 6-304 of Title 29 of the
13 Oklahoma Statutes.

14 C. 1. It shall be an affirmative defense to prosecution under
15 paragraph 1 of subsection A of this section that the accused had
16 express or implied permission or legal authority to be on the
17 property.

18 2. If an accused reasonably believed he or she was upon
19 property for which they had permission to be upon, it shall be an
20 affirmative defense to prosecution under paragraph 1 of subsection A
21 of this section that the accused had with him or her, on his or her
22 person, written permission from the owner or lawful occupant to be
23 upon such person's land while the accused was upon any adjoining
24 property. This defense shall not be available to the accused if:

1 a. the accused has previously pled guilty, nolo
2 contendre, or has been convicted of any act of
3 trespass or has been found civilly liable of any act
4 of trespass, or

5 b. the accused, while the accused was upon the adjoining
6 property, does not have with him or her, on his or her
7 person, the written permission specified in this
8 paragraph.

9 SECTION 2. This act shall become effective November 1, 2011.

10
11 53-1-1108 JT 1/20/2011 12:55:57 PM
12
13
14
15
16
17
18
19
20
21
22
23
24